



Legislation Text

File #: 080194, Version: 1

.Number
080194
SUBSTITUTE 1

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A substitute ordinance relating to chronic nuisance violations and liability for the costs of ordinance enforcement associated with nuisance properties to parties.

80-10-1 am
80-10-2-b-12 am
80-10-2-b-31 cr
80-10-2-b-32 cr
80-10-2-c rn
80-10-2-c cr
80-10-3-a-0 am
80-10-3-a-3 am
80-10-3-a-5 am
80-10-3-b am
80-10-3-c am
80-10-3-d-1 am
80-10-3-d-2 am
80-10-3-e-0 am
80-10-3-e-2 am
80-10-3-e-3 am
80-10-3-e-5 am

The code currently provides a procedure where, under circumstances involving repeated violation of specified ordinances, the owner of a nuisance property may be assessed the costs of enforcement associated with subsequent violations. This ordinance extends the liability for these enforcement costs to any individuals or entities licensed or subject to license requirements in the operation of a business upon the premises. Unpaid costs of enforcement of responsible parties other than property owners may be referred by the chief of police to the city attorney for collection.

This ordinance also amends the city's chronic nuisance premises provisions by adding to the definition of nuisance activity violations of possession or use of firearms, underage alcohol activities, and adults contributing, allowing or providing alcohol to underage persons.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 80-10-1 of the code is amended to read:

80-10. Chronic Nuisance Premises.

1. FINDINGS. The common council finds that any premises that has generated 3 or more calls for police service for

nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the city. The common council further finds that premises owners>>, and other parties conducting business activities upon the premises,<< that chronically fail to control the use of their property substantially interfere with the comfortable enjoyment of life, health and safety of the community. The common council therefore directs the chief of police and the commissioner of neighborhood services, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.

Part 2. Section 80-10-2-b-12 of the code is amended to read:

2. DEFINITIONS.

b-12. Crimes involving illegal possession >>or use<< of firearms as defined in ~~[[ss. 941.23, 941.26, 941.28, 941.29]]~~ >> ch. 941<< and >>s.<< 948.60, Wis. Stats.

Part 3. Section 80-10-2-b-31 and 32 of the code is created to read:

b-31. Underage alcohol activities, as defined in s. 90-18.

b-32. Adult contributing, allowing, providing alcohol to underage persons activities, as defined in s. 90-18.

Part 4. Section 80-10-2-c of the code is renumbered 80-10-2-d.

Part 5. Section 80-10-2-c of the code is created to read:

2. DEFINITIONS.

c. "Other responsible party" means any individual or entity other than the owner of the premises that is licensed or subject to license in the operation of a business upon a premises.

Part 6. Section 80-10-3-a-0 of the code is amended to read:

3. PROCEDURE. a. Whenever the chief of police determines that the police department has responded to 3 or more nuisance activities that have occurred at a premises on separate days during a 30-day period or that the police department has responded to 2 or more nuisances of the types defined in sub. 2-b-5, 9 to 12 that have occurred at a premises within one year, the chief of police may notify the premises owner>> or other responsible party<< in writing that the premises is a nuisance. This notice shall contain:

Part 7. Section 80-10-3-a-3 of the code is amended to read:

a-3. A statement indicating that the cost of future enforcement may be assessed as a special charge against the premises and that the owner>> or other responsible party<< may be cited under sub. 6.

Part 8. Section 80-10-3-a-5 of the code is amended to read:

a-5. A statement that the premises owner>> or other responsible party<< shall within 10 days either respond to the chief of police with an acceptable, written course of action to abate the nuisance activities at the premises or file an appeal pursuant to sub. 5-a.

Part 9. Section 80-10-3-b and c of the code is amended to read:

b. This notice shall be deemed to be properly delivered if sent either by first class mail to the premises owner's >> or other responsible party's<< last known address or if delivered in person to the premises owner>> or other responsible party<<. If the premises owner>> or other responsible party<< cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's >> or other responsible party's<< usual place of abode>> or regular business<< in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing >>or conducting business<< there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner >> or other responsible party<< as identified by the records of the commissioner of

assessments>>, to the appropriate licensing authority<< or the commissioner of neighborhood services.

c. Upon receipt of the nuisance premises notice, the premises owner >> or other responsible party<< shall respond within 10 days to the chief of police with a written course of action outlining the abatement actions the premises owner >> or other responsible party<< will take in response to the notice. Upon review of the ~~[[premises owner's]]~~ written course of action, the chief shall accept or reject the plan.

c-1. If the written course of action is accepted, the chief shall inform the owner>> or other responsible party<< of same and permit the owner>> or other responsible party<< 45 days to implement the written course of action. If the premises owner >> or other responsible party<< has implemented the approved written course of action within 45 days, no further action by the department may be taken except that if nuisance activity continues, the chief may request the premises owner >> or other responsible party<< to revise the accepted written course of action.

c-2. If the premises owner >> or other responsible party<< fails to respond, proposes an unacceptable written course of action or fails to implement or modify an approved written course of action, the chief shall notify the premises owner >> or other responsible party<< that the cost of future enforcement may be assessed as a special charge against the premises and that the owner >> or other responsible party<< may be cited under sub. 6.

Part 10. Section 80-10-3-d-1 and d-2 of the code is amended to read:

d-1. 13 days after notice was given pursuant to sub. 3-a if the premises owner>> or other responsible party<< fails to respond or fails to propose a written course of action for abatement that is acceptable to the chief of police; or,

d-2. 45 days after the written course of action was accepted and the premises owner>> or other responsible party<< failed to properly implement or modify the accepted written course of action for abatement.

Part 11. Section 80-10-3-e-0, e-2, e-3 and e-5 of the code is amended to read:

e. The chief of police shall notify the premises owner>> or other responsible party<< of the decision to refer the cost of police services by copy of the chief's cost referral letter to the commissioner of neighborhood services>> or, alternatively, the chief of police shall notify the responsible party of the decision to refer the cost of police services by copy of the chief's referral letter to the city attorney for collection and to the appropriate licensing authority <<. Delivery of this notice shall be made as set forth in sub. 3-b. The cost referral letter shall contain:

e-2. A statement that the chief of police has referred the cost of enforcement to the commissioner>> or to the city attorney and to the appropriate licensing authority,<< with a concise description of the nuisance activities and the relevant sections of the code.

e-3. A notice of the premises owner's >> or other responsible party's<< right to appeal pursuant to sub. 5.

e-5. A statement that whenever a premises owner >> or other responsible party<< has been billed, on 3 or more separate dates, for the costs of enforcement within one year, he or she may be issued a citation of not less than \$1,000 nor more than \$5,000 after notification by the chief of police that the premises is a chronic nuisance due to the premises owner's >> or other responsible party's<< failure to abate the nuisance activities.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

File #: 080194, **Version:** 1

Office of the City Attorney

Date: _____

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6/17/08